

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of:	)	
	)	
Notice Of Proposed Rulemaking	)	MB Docket No. 05-181
Implementation of Section 210 of the	)	
Satellite Home Viewer Extension and	)	
Reauthorization Act of 2004 to Amend	)	
Section 338 of the Communications Act	)	

**COMMENTS IN SUPPORT OF ECHOSTAR'S  
PETITION FOR RECONSIDERATION**

**I. INTRODUCTION**

We fully support Echostar's petition for reconsideration on the multicast carriage digital signals. The analysis presented by the Commission is not consistent with the reality of the Alaska television market, the current state of DBS service in Alaska, or the goal of the digital transition.

**II. DISCUSSION**

1. ***Alaska Television Market.*** The Commission expressed in their analysis that a multicast mandate would result in some type of incentive for local broadcasters to produce content aimed at rural Alaska. We find no support for this argument in our review of the Alaska market. Each of the major network affiliates in Anchorage have consistently stated that advertising dollars, the fuel of the broadcast industry, are not impacted in any way by the numbers of rural Alaska viewers. These viewers are not counted by Nielsen and don't count on the balance sheet. That is why they are not and probably will never be included in a DMA. So unless a broadcaster desires to invest time and money in a philanthropic effort to generate content aimed at rural Alaska, there is nothing to indicate that the market will respond by generating new programming. Consider today, almost no content produced in Alaska by commercial broadcasters is aimed exclusively at rural areas even though there are significant blocks of time in the broadcast day for airing this content. They would prefer to show programs in syndication or sell their air time for infomercials. We do not see how providing additional programming outlets in multicast will change this strategy. If there is the need and desire to send content aimed at rural Alaska, a public interest set aside of DBS capacity for Alaska would seem to be a better way to achieve this goal.

2. ***Current State of DBS in Alaska.*** While much has been said about the comparability of service in Alaska, there is no question that the level of service in Alaska is not the same as other states. The Commission seems to be attempting to correct this imbalance through the multicast mandate. We fail to see how this will work. Reserving a significant portion of the best satellite capacity serving Alaska for multicast use by broadcasters with the hope they might produce some local programming, prevents the use of this same capacity for providing programming available to the rest of the United States. If the goal is to make available "to all people of the United States" a "rapid, efficient,

*Nationwide*, and world-wide wire and radio communications service” and of providing “a fair, efficient, and equitable distribution of radio services” among the several states (47 U.S.C. 151, 307b), the multicast mandate falls woefully short. In the United States we generally determine distribution of resources through a free market and government regulation is normally aimed at making markets as free and open as possible. The way to do that in Alaska is not a multicast mandate, but enforceable geographic service rules so we can eliminate the need for special consideration of Alaska in future SHVERA’s. The multicast mandate does not improve the overall amount and quality of DBS bandwidth serving Alaska, it simply reserves the best capacity that only serves Alaska for the exclusive use of a few content providers.

3. ***Digital Transition in Rural Alaska.*** Underpinning much of the Commission’s analysis in this proceeding was ensuring rural Alaska participated in the digital transition and had full access to digital services. First, except for a collection of transmitters operated by the State of Alaska providing a single channel of off air television, the digital television transition started and ended the day the first DBS satellite went into service. Since that time the predominant format for delivery of television services to rural Alaska has become digital MPEG-2. The multicast mandate has nothing to do with the digital television transition because of the almost complete lack of commercial broadcasters in rural Alaska. We go back to our previous point on geographic service. If the goal to provide full access to digital services and equitable distribution of satellite resources, the best way to achieve that is through enforceable (and enforced) geographic service rules, not mandates on who controls what content is sent over limited bandwidth. We are not clear on the First Amendment implications of this mandate, but it surely seems that giving bandwidth to local broadcasters doesn’t allow the market to respond to determine what we see, but it certainly tells us what we are going to see.

### III. SUMMARY

Microcom firmly believes the goal of any legislation and subsequent rulemaking should be to incorporate non contiguous states into the same legal and administrative framework as the other states and to achieve technical and economic parity with those states in access to DBS services. We applaud the efforts of the Commission to insure Alaskans have equitable access to satellite capacity and fully participate in the digital transition. We fail to see how the current multicast mandate in the Commission’s Report and Order furthers this objective.

Respectfully Submitted:

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